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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

CARIN SALTER et al.,
Plaintiffs and Respondents,
v.
GLENN LERNER,
Defendant and Appellant.

A138666

(City & County of San Francisco
Super. Ct. No. PTR-07-290766)

The motion of Carin Salter and Jennifer Segal to dismiss the appeal of Glenn Lerner from the order denying Lerner’s petition for instructions regarding the statute of limitations, etc., is GRANTED. Whether Lerner’s petition is regarded as a demurrer or a motion to dismiss based on facts not appearing on the face of the underlying petition filed by Salter and Segal, the order denying Lerner’s petition is not a “final order under Chapter 3 (commencing with Section 17200) of Part 5 of Division 9 [of the Probate Code],” made appealable by Probate Code section 1304, subdivision (a). Unlike the order from which the appeal was taken in *Germino v. Hillyer* (2003) 107 Cal.App.4th 951, on which Lerner relies in arguing that the present order is appealable, the present order denies Lerner’s petition, denying his request to determine that the petition by Salter and Segal is barred by the statute of limitations. The claims of Salter and Segal thus remain to be resolved. The order in *Germino v. Hillyer* granted a similar motion, thus finally determining that certain claims contesting the trust were barred, leaving nothing further in that respect to be determined.

The appeal is hereby dismissed.

Pollak, Acting P.J.

We concur:

Siggins, J.

Jenkins, J.